

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|---|---|---|
| In The Matter Of: |) | |
| |) | |
| Larry E Logan, Jr. |) | Case Number: 16-43263-399 |
| |) | |
| Debtor |) | |
| |) | Chapter 13 |
| JPMorgan Chase Bank, National Association |) | |
| |) | Motion to Lift Stay filed by |
| |) | JPMorgan Chase Bank, National Association |
| Movant |) | |
| |) | |
| vs. |) | |
| |) | Millsap & Singer, LLC |
| Larry E Logan, Jr. |) | 612 Spirit Drive |
| |) | St. Louis, MO 63005 |
| Debtor |) | (636) 537-0110 |
| |) | |
| and |) | Hearing Date: March 8, 2017 |
| |) | Hearing Time: 10:00 A.M. |
| John V. LaBarge, Jr. |) | Objection Deadline: March 1, 2017 |
| |) | |
| Trustee |) | |
| |) | |
| Respondents |) | |
| |) | |

NOTICE OF HEARING AND
MOTION FOR RELIEF FROM AUTOMATIC STAY,
RELIEF FROM CO-DEBTOR STAY, OR
IN THE ALTERNATIVE, TO DISMISS

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE BY MARCH 1, 2017. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY



RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.

IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS. THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE BARRY S. SCHERMER, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F. EAGLETON U.S. COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 5, NORTH COURTROOM, ST. LOUIS, MO 63102.

COMES NOW, JPMorgan Chase Bank, National Association and for its Motion for Relief from Automatic Stay, Relief from Co-Debtor Stay, or, in the Alternative, to Dismiss states as follows:

1. On May 3, 2016, Debtor filed a Petition under Chapter 13 of the Bankruptcy Code. John V. LaBarge, Jr. is the duly appointed and qualified Trustee in this case.

2. JPMorgan Chase Bank, National Association is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated May 7, 2009 in the original principal amount of \$168,367.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated May 7, 2009 and recorded as 2009R-020791 constituting a first lien on real estate owned by the Debtor. Said property being commonly known as 9600 Persimmon Point Dr, Hillsboro, MO 63050; more particularly described as follows:



LOT 12 OF REVISED PLAT OF PERSIMMON POINT PLAT 1, A
SUBDIVISION IN JEFFERSON COUNTY, MISSOURI, ACCORDING TO
THE PLAT THEREOF RECORDED IN PLAT BOOK 206, PAGE 1 OF THE
JEFFERSON COUNTY RECORDS.

A copy of said Deed of Trust, which is recorded in the Jefferson County Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

5. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

6. JPMorgan Chase Bank, N.A., services the loan on the property referenced in this Motion for Relief. In the event the automatic stay in this case is lifted/set aside, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of JPMorgan Chase Bank, National Association. Said entity directly or through an agent, has possession of the promissory note. The promissory note is either made payable to said entity or has been duly endorsed.

7. As of February 1, 2017, the current unpaid principal balance and interest on said note is as follows:

| | |
|----------------------|--------------|
| Principal | \$147,570.46 |
| Interest to 2/2/2017 | \$4,365.36 |
| Total Pay Off | \$151,935.82 |

8. The Chapter 13 Plan filed by the Debtor calls for treatment of the secured claim with payments being made by the Debtor. Monthly post petition payments are



owing and delinquent from December 1, 2016 to the present. The following are the payments that are delinquent as of February 1, 2017:

| | |
|-------------------------|------------|
| 3 payments @ \$1,307.70 | \$3,923.10 |
| Total Arrearages | \$3,923.10 |

A post-petition payment history has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.

9. The aforesaid realty has depreciated in value while in possession of the Debtor. Such property is not necessary for an effective reorganization.

10. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

(a) Post-petition payments to JPMorgan Chase Bank, National Association have not been paid by the Debtor.

(b) JPMorgan Chase Bank, National Association does not have adequate protection for its interest in said real estate.

(c) If JPMorgan Chase Bank, National Association is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

(d) The Chapter 13 plan with respect to JPMorgan Chase Bank, National Association was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

11. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Counsel for Debtor to the extent provided for under applicable nonbankruptcy law to discuss loss mitigation options including alternatives to foreclosure.

WHEREFORE, Movant prays that this Court terminate the automatic stay and co-debtor stay in regard to the realty in order to permit Movant, or its successors and



assigns to proceed with foreclosure on the aforesaid property, to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note, and to pursue its remedies under state law for possession of said property after foreclosure, to proceed with any foreclosure alternatives and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days. In the alternative, Movant prays that this Court dismiss this case for failure to abide by the terms and conditions of the Chapter 13 plan, and for such other relief as is appropriate and just.

Dated February 15, 2017

Respectfully Submitted,
Millsap & Singer, LLC

/s/ William T. Holmes, II

Cynthia M. Woolverton, #47698, #47698MO

William T. Holmes, II, #59759, #59759MO

Benjamin C. Struby, #56711, #56711MO

612 Spirit Drive

St. Louis, MO 63005

Telephone: (636) 537-0110

Facsimile: (636) 537-0067

bkty@msfirm.com

Attorneys for JPMorgan Chase Bank, National
Association



CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on February 15, 2017, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the state of Missouri on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ William T. Holmes, II

Electronic Mail Notice List

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Sean C. Paul

John V. LaBarge, Jr.

Office of the United States Trustee

Manual Notice List

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Larry E Logan, Jr.
9600 Persummon Point Drive
Hillsboro, MO 63050

Cheryl Logan
9600 Persimmon Point Dr.
Hillsboro, MO 63050



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EASTERN DISTRICT OF MISSOURI
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| |) | |
| Trustee |) | |
| |) | |
| Respondents |) | |
| |) | |

SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

- A. Note
- B. Deed of Trust
- C. Post Petition Payment History

Respectfully Submitted,
Millsap & Singer, LLC

/s/ William T. Holmes, II

Cynthia M. Woolverton, #47698, #47698MO

William T. Holmes, II, #59759, #59759MO

Benjamin C. Struby, #56711, #56711MO



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Facsimile: (636) 537-0067
bkty@msfirm.com

Attorneys for JPMorgan Chase Bank, National
Association

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of all documents supporting my Motion for Relief referenced above, including legible copies of all documents evidencing perfection of security interests have been served on the Trustee, Counsel for the Debtor and Co-Debtor(s) on February 15, 2017. Copies of the above documents are available to other parties in interest upon request.

/s/ William T. Holmes, II

